



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on December 13, 2005

Date of Meeting: November 15, 2005

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:37 p.m. on Tuesday, November 15, 2005, all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

José J. Ibarra
Carol W. West
Shirley C. Scott
Steve Leal
Robert E. Walkup

Council Member Ward 1
Council Member Ward 2
Council Member Ward 4
Council Member Ward 5
Mayor

Absent/Excused:

Kathleen Dunbar
Fred Ronstadt

Vice Mayor, Council Member Ward 3
Council Member Ward 6

Staff Members Present:

Mike Hein
Michael Rankin
Kathleen S. Detrick
Mike Letcher

City Manager
City Attorney
City Clerk
Deputy City Manager

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Pastor Gisella Montana, Desert Valley Adventist Church, after which the pledge of allegiance was led by Webelos Pack 251.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 596, dated November 15, 2005, would be received into and made a part of the record. He also announced this was the time scheduled to allow members of the Council to report on current events and asked if there were any reports.

- a. Council Member West announced an art exhibit featuring works of Shaba, the Reid Park Zoo elephant, was showing at Eastside City Hall. Post cards of the works were available for sale with the proceeds benefiting the Reid Park Zoo. Also showing, were the Soleng Tom kindergarten classes' portrayals of elephants.

Council Member West thanked Emily Nottingham, Director of Community Services, for showing six Romanian visitors interested in affordable housing some of the City projects.

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 597, dated November 15, 2005, would be received into and made a part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events and asked for that report.

Mike Hein, City Manager, reported:

- a. The Transportation Department and Sun Tran had received an Environmental Management System (EMS) certification from the International Standards Organization (ISO) 14001. Sun Tran was the first transit agency in the nation to receive this certification for its maintenance facility. He thanked the Transportation Department and Sun Tran, as well as Central Safety, Environmental Services, Tucson Fire, and General Services for their effort.
- b. The Tucson Police Department was featured as the best dressed or outfitted police department with over two hundred officers in the October 2005 Uniform and Equipment issue of Law and Order magazine. He congratulated the department on their tasteful wardrobe and the recognition.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 595, dated November 15, 2005, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. Liquor License Applications

New License

1. Cafe Poca Cosa, Ward 6
120 E. Pennington
Applicant: Suzana Maria Davila
Series 12, City 92-05
Action must be taken by: November 20, 2005
Staff has indicated the applicant is in compliance with city requirements.
2. Korea House Restaurant, Ward 6
4030 E. Speedway Blvd.
Applicant: Kyong M. Baker
Series 12, City 94-05
Action must be taken by: November 26, 2005
Staff has indicated the applicant is in compliance with city requirements.
3. Sachiko Sushi III, Ward 3
1800 E. Ft. Lowell Road, #116
Applicant: Young Bun Ishii
Series 12, City 97-05
Action must be taken by: November 28, 2005
Staff has indicated the applicant is in compliance with city requirements.

Person/Person Transfer

4. Olive R Twist Cafe, Ward 6
4915 E. Speedway Blvd.
Applicant: Tanya Elaine Taylor
Series 06, City 95-05
Action must be taken by: November 24, 2005
Staff has indicated the applicant is in compliance with city requirements.
Public Opinion: Protest filed
Considered separately

5. Rodeway Inn Motel, Ward 1
1365 W. Grant Road
Applicant: Shamsheer Singh
Series 06, City 96-05
Action must be taken by: November 26, 2005
Staff has indicated the applicant is in compliance with city requirements.

Person/Location Transfer

6. Abella Wedding and Reception Center, Ward 6
5225 E. Speedway Blvd.
Applicant: Judith Irene Muhlestein
Series 06, City 93-05
Action must be taken by: November 20, 2005
Staff has indicated the applicant is in compliance with city requirements.

c. Special Event

1. Congregation Anshei Israel, Ward 6
5550 E. 5th Street
Applicant: Patricia W. Citron
City T106-05
Date of Event: December 17, 2005
75th Anniversary Dinner - Dance
Staff has indicated the applicant is in compliance with city requirements.
2. Health World of Scottsdale, Ward 3
4500 N. Oracle Rd., Sp 227
Applicant: Peter Rusin
City T111-05
Date of Event: November 17, 2005
To Introduce Health World to the Community at Large
Staff has indicated the applicant is in compliance with city requirements

d. Agent Change

1. Residence Inn By Marriott, Ward 2
6477 E. Speedway Blvd.
Applicant: Steven Mark Ryan
City AC06-05
Action must be taken by: November 20, 2005
Staff has indicated the applicant is in compliance with city requirements.

2. Tony Romas Oracle, Ward 3
4620 N. Oracle Road
Applicant: Robert William Penprase
City AC07-05
Action must be taken by: November 19, 2005
Staff has indicated the applicant is in compliance with city requirements.
3. VFW #4903, Ward 6
1150 N. Beverly Avenue
Applicant: Franciso Guzman Duenas
City AC08-05
Action must be taken by: November 26, 2005
Staff has indicated the applicant is in compliance with city requirements.
4. Tony Romas Kolb, Ward 2
750 N. Kolb Road
Applicant: Robert William Penprase
City AC09-05
Action must be taken by: November 21, 2005
Staff has indicated the applicant is in compliance with city requirements.
5. Famous Dave's, Ward 3
4565 N. Oracle Road
Applicant: David Michael Dworak
City AC10-05
Action must be taken by: November 21, 2005
Staff has indicated the applicant is in compliance with city requirements.

It was moved by Council Member West, duly seconded, and carried by a voice vote of 5 to 0 (Council Member Ronstadt and Vice Mayor Dunbar absent/excused), to forward liquor license applications 5b1, 5b2, 5b3, 5b5, 5b6, 5c1, 5c2, and 5d1 through 5d5, to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

Person Transfer

4. Olive R Twist Cafe, Ward 6
4915 E. Speedway Blvd.
Applicant: Tanya Elaine Taylor
Series 06, City 95-05
Action must be taken by: November 24, 2005
Staff has indicated the applicant is in compliance with city requirements.

Kathleen S. Detrick, City Clerk, announced Item 5b4, a request for a person to person transfer for the Olive R Twist Cafe, would be considered separately. The license

had a protest filed and was located in Ward 6. Staff indicated the applicant was in compliance with city requirements.

Council Member West asked if the applicant or a representative was present and if would they come forward to talk about the intended use of the series 6 license.

Tanya Taylor, the applicant, stated the location had been in business for three years before it was purchased. There had been no complaints or problems with the business and she looked forward to continuing in the same manner. She said she had been in contact with the neighborhood watch members and they had no complaints or concerns as long as there was no loud music and no fights after hours.

Council Member West asked if the protester was present. They were not.

Council Member West stated the protester indicated there had been noise issues under various ownership's. The protester claimed the establishment had a back patio and a rear parking lot where patrons congregated, used drugs, and played loud music from their car stereos. There were also allegations of a couple of shootings occurring in the rear parking lot in the past three years.

Ms. Taylor said the allegations were found not to be true. She had spoken to the last owner and there was no loud music. At closing time, they checked the parking lot and everyone was removed. No one was left on the premises after hours. She planned to continue as before.

Council Member West asked Ms. Taylor if the business employed security in their parking lot.

Ms. Taylor said they did not.

Council Member West suggested it might be a good idea to start thinking about doing that, perhaps in collaboration with other businesses in the area. She pointed out they would not want some of those things to occur, particularly with a series 6 license. She said because it was a transfer and staff had indicated the applicant was in compliance, she would move to forward the application with approval.

Mayor Walkup asked if there was any discussion.

Council Member Leal asked the applicant why she was choosing a series 6 license instead of a series 12 for the café.

Ms. Taylor said it was due to the patio, as well as the other privileges that came with the series 6 license. She said it was the business' responsibility and all their staff were well trained in liquor license regulations. It also allowed the sale of alcohol.

Ms. Detrick reminded the Council that it was a person to person transfer.

Mike Rankin, City Attorney, pointed out that was correct, it was a person to person transfer. The issue was an existing series 6 transferring from person to person, not a new location. The extent of the area of consideration was the capabilities, qualifications, and reliability of the applicant.

Council Member West thought it behooved the owner to be responsible as it was obvious from the letter, not everyone believed the prior owners had been so. She said it was up to the applicant to make sure they ran an establishment that was above reproach. She thought Council Member Leal was right to question that.

It was moved by Council Member West, duly seconded, and passed by a voice vote of 5 to 0 (Council Member Ronstadt and Vice Mayor Dunbar absent/excused), to forward liquor license application 5b4 to the Arizona State Liquor Board with a recommendation for approval.

6. CONSENT AGENDA – ITEMS A THROUGH M

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda Items would be received into and made a part of the record. He asked the City Clerk to read the Consent Agenda.

A. REAL PROPERTY: VACATION AND SALE OF SURPLUS PROPERTY LOCATED AT 5610 SOUTH CAMPBELL AVENUE

1. Report from City Manager NOV15-05-593 WARD 5
2. Ordinance No. 10214 relating to real estate; vacating and declaring certain City-owned property located at 5610 South Campbell Avenue to be surplus and authorizing the sale thereof to Sienna Real Estate & Development, L.L.C.; and declaring an emergency.

B. FINAL PLAT AMENDMENT: (S04-027) CONDOMINIUM PLAT FOR CIVANO NEIGHBORHOOD CENTER, UNITS 1 TO 5, AND COMMON ELEMENTS A THROUGH B AND LIMITED COMMON ELEMENTS C THROUGH K

1. Report from City Manager NOV15-05-598 WARD 4
2. The City Manager recommends that the Mayor and Council approve the amended final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

Item B was continued at the request of staff.

- C. ASSURANCE AGREEMENT: (S04-113) HOMES AT IRWIN PLACE SUBDIVISION (RCP), LOTS 1 TO 12 AND COMMON AREAS “A” (FUNCTIONAL OPEN SPACE AND DRAINAGE), “B” (PRIVATE STREET), AND “C” (LANDSCAPE AREA)
1. Report from City Manager NOV15-05-599 WARD 3
 2. Resolution No. 20216 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S04-113 of a final plat for the Homes at Irwin Place Subdivision, Lots 1 to 12 and Common Areas “A” – “C”; and declaring an emergency.
- D. FINAL PLAT: (S04-113) HOMES AT IRWIN PLACE SUBDIVISION (RCP), LOTS 1 TO 12 AND COMMON AREAS “A” (FUNCTIONAL OPEN SPACE AND DRAINAGE), “B” (PRIVATE STREET), AND “C” (LANDSCAPE AREA)
1. Report from City Manager NOV15-05-600 WARD 3
 2. It is recommended that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- E. REAL PROPERTY: VACATION AND SALE OF PROPERTY LOCATED IN THE 3700 BLOCK OF EAST SPEEDWAY BOULEVARD
1. Report from City Manager NOV15-05-601 WARD 6
 2. Ordinance No. 10215 relating to real estate; vacating and declaring certain City-owned property located at 3740 East Speedway Boulevard to be surplus and authorizing the sale thereof to Jose L. Rincon; and declaring an emergency.
- F. ASSURANCE AGREEMENT: (S03-022) SYLVESTER DRIVE ESTATES SUBDIVISION, LOTS 1 TO 13
1. Report from City Manager NOV15-05-605 WARD 1
 2. Resolution No. 20218 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S03-022 of a final plat for the Sylvester Drive Estates Subdivision, Lots 1 to 13; and declaring an emergency.

G. FINAL PLAT: (S03-022) SYLVESTER DRIVE ESTATES SUBDIVISION, LOTS 1 TO 13

1. Report from City Manager NOV15-05-606 WARD 1
2. It is recommended that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

H. FINANCE: COMMUNITY SUPPORT FUND TRANSFER FOR ADMINISTRATION OF RESOURCES AND CHOICES

1. Report from City Manager NOV15-05-609 WARD 6
2. Resolution No. 20219 relating to Finance; approving and authorizing the allocation of seven hundred thirty five dollars (\$735) from the Community Support Fund to Organization 001-183-1898-268, Administration of Resources and Choices, to assist a victim and children in need; and declaring an emergency.

This is a request by Council Member Ronstadt. Allocation of funds is as follows:
Council Member Ronstadt - \$735.00

I. AGREEMENT: WITH PIMA ASSOCIATION OF GOVERNMENTS FOR PLANNING AND PROFESSIONAL SERVICES FOR FISCAL YEAR 2006

1. Report from City Manager NOV15-05-611 CITY-WIDE
2. Resolution No. 20220 relating to transportation; approving and authorizing the agreement between the City of Tucson's Tucson-Mexico Trade Office and Pima Association of Governments for Planning and Professional Services during FY 2006; and declaring an emergency.

J. ASSURANCE AGREEMENT: (S04-177) MILLER SUBDIVISION, LOTS 1 TO 4

1. Report from City Manager NOV15-05-613 WARD 2
2. Resolution No. 20221 relating to planning; authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S04-177 of a final plat for the Miller Subdivision, Lots 1 to 4; and declaring an emergency.

K. FINAL PLAT: (S04-177) MILLER SUBDIVISION, LOTS 1 TO 4

1. Report from City Manager NOV15-05-614 WARD 2
2. It is recommended that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

L. REAL PROPERTY: LEASE AGREEMENT WITH SILVERBELL HOMES LP

1. Report from City Manager NOV 15-05-616 WARD 1
2. Ordinance No. 10217 relating to real estate; authorizing and approving the lease of certain City-owned real property located on Silverbell Road near Goret Road to Silverbell Homes LP; and declaring an emergency.

M. APPROVAL OF MINUTES

1. Report from City Manager NOV15-05-615 CITY-WIDE
2. Approval of minutes for the regular meeting of the Mayor and Council held on October 18, 2005.

Council Member Ibarra said he might have a conflict of interest with one item, possibly two items on the consent agenda. He asked to abstain from voting on the entire consent agenda if it was acceptable to the City Attorney. He said he understood that if he left the area it would break the quorum. He asked the City Attorney what he should do.

Mike Rankin, City Attorney, said it would be fine, as Council Member Ibarra announced his conflict of interest regarding Item E, to abstain, and they appreciated him staying so the Council could continue to conduct business.

Council Member Ibarra declared he would abstain from voting on any of the consent agenda items.

It was moved by Council Member Scott, duly seconded, that Consent Agenda Items A through M, with the exception of Item B which was continued, be passed and adopted and the proper action taken.

Mayor Walkup asked if there was further discussion. Upon hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members West, Scott, and Leal;
Mayor Walkup

Nay: None

Absent/Excused: Council Member Ronstadt and Vice Mayor Dunbar

Consent Agenda Items A through M, with the exception of Item B, were declared passed and adopted by a roll call vote of 4 to 0 (Council Member Ibarra abstaining due to a potential conflict of interest regarding Item E).

7. CALL TO THE AUDIENCE

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except items scheduled for a public hearing. Speakers would be limited to three-minute presentations and the Call to the Audience was scheduled to last for twenty minutes. He asked if there was anyone in the audience who wished to address the Council.

- a. Michael Toney spoke regarding the Rio Nuevo Citizens' Advisory Committee meeting "Call to the Audience". He indicated the schedule had been rearranged so that time ran out before the Call to the Audience item could occur. He said he sent notice of the violation to Council Member Ibarra's Office. He also hoped the new City Council would take action to stop the bridge and consider a laser computer.
- b. Clifford Altfeld thanked Mayor and Council for passing Consent Agenda Items F and G. He was applying for grants to build low-income housing. He also wanted to thank Rosa Lesky, the tax collector for the City, for being a pleasant and responsive worker. Mr. Altfeld suggested that the Mayor and Council consider privatizing trash pickup if the garbage fee issue was revisited.
- c. Tom Parsons said he was going to speak on a consent agenda item, but it had already been passed.
- d. Reverend Bishop Chicago spoke on the ballot item regarding Mayor and Council raises. He felt raises were not necessary and no one should be getting a raise due to Hurricane Katrina. He welcomed the new members to the Council. He also commented on the City's inadequate bus service, especially at night.
- e. Patti Rea commented on the lack of bus service. She felt buses should run earlier in the morning and later at night. She wanted more routes added and lighted bus stops. She also thought that senior discount cards should be laminated.

- f. Robert Reus agreed there was not enough bus service. He felt if the buses ran later at night it would prevent more people from drinking and driving. He also spoke about his hopes of bringing a “Change of Government” issue forward next year and raising the Council Members’ salaries.

8. PUBLIC HEARING: ARROYO CHICO AREA PLAN AMENDMENT, ALVERNON/25TH STREET – COMMERCIAL (PARKING)

Mayor Walkup announced City Manager’s communication number 607, dated November 15, 2005, would be received into and made a part of the record.

Kathleen S. Detrick, City Clerk, stated the applicant requested the public hearing be continued to November 22, 2005. Staff recommended that the public hearing be opened on November 15, 2005, testimony taken, and the public hearing continued until November 22, 2005.

Mayor Walkup announced this was the time and place legally advertised for a public hearing on a request to rezone property located on the east side of Winstel Boulevard between Juarez Street and Twenty Fifth Street. He asked if anyone wished to address the Council on this item. There was no one.

It was moved by Council Member Leal, duly seconded, and passed by a voice vote of 5 to 0 (Council Member Ronstadt and Vice Mayor Dunbar absent/excused) to continue the public hearing to the meeting of November 22, 2005 to be held in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona at or after 5:30 p.m.

9. PUBLIC HEARING: MELPOMENE/22ND STREET ANNEXATION DISTRICT

Mayor Walkup announced City Manager’s communication number 602, dated November 15, 2005, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on the proposed Melpomene Way and Twenty Second Street Annexation District. The public hearing was scheduled to last for no more than one hour. Speakers would be limited to five-minute presentations. Mayor Walkup asked if anyone wished to address the Council on this item.

Michael Toney thought it was a very abstract form of annexation. He would have liked to see the intention of the annexation outlined. He said he spent much time in Santa Cruz, California and the Santa Cruz County Board of Supervisors always had a slide show displaying the surrounding area. He was glad to see the Council move toward more green space when taking in county land.

It was moved by Council Member Ibarra, duly seconded, and passed by a voice vote of 5 to 0 (Council Member Ronstadt and Vice Mayor Dunbar absent/excused) to close the public hearing.

It was moved by Council Member Scott, duly seconded, and passed by a voice vote of 5 to 0 (Council Member Ronstadt and Vice Mayor Dunbar absent/excused) to proceed with the annexation district.

10. ZONING: (C9-01-15) QURESHI – QUEEN AVENUE, P TO R-2, ORDINANCE ADOPTION

Mayor Walkup announced City Manager's communication number 608, dated November 15, 2005, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10216 by number and title only.

Kathleen S. Detrick, City Clerk, announced there was an error in the caption of the Ordinance. It read "and declaring an emergency" which was not correct for zoning ordinances. The correct wording was "and setting an effective date", therefore, she would read the correct wording into the record.

Ordinance No. 10216 relating to zoning: amending zoning district boundaries in the area located at the northwest corner of Speedway Boulevard and Queen Avenue in Case C9-01-15, Qureshi – Queen Avenue, P to R-2; and setting an effective date.

It was moved by Council Member West, duly seconded, to pass and adopt Ordinance 10216.

Mayor Walkup asked if there was further discussion. Upon hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott, and Leal;
Mayor Walkup

Nay: None

Absent/Excused: Council Member Ronstadt and Vice Mayor Dunbar

Ordinance 10216 was declared passed and adopted by a roll call vote of 5 to 0.

11. ZONING: (C9-05-18) BLYTHE – HAWTHORNE STREET, R-1 TO O-2, CITY MANAGER'S REPORT

Mayor Walkup announced City Manager's communication number 603, dated November 15, 2005, would be received into and made a part of the record. This was a request to rezone property located on the northwest corner of Hawthorn Street and Wilmot Road. He also announced the Zoning Examiner and the City Manager recommended approval subject to certain conditions. He asked if the applicant or representative was present and if they were aware of and agreeable to the proposed requirements.

Richard Blythe, the applicant, said his father, who had passed away a year and a half ago, had built the property fifty years ago and he had literally been born there. The property was right on Wilmot. Fifty years ago it was okay to have a house on Wilmot as a residence, but not anymore. He had inherited the property and was planning a nice buffering area and would be bringing the property back to standard. He said a previous gentleman stated he had spent thirty thousand dollars on a small development, he himself had spent twenty-two thousand dollars on a little house, so he felt it was a well-developed plan.

It was moved by Council Member Ibarra, duly seconded, and passed by a voice vote of 5 to 0 (Council Member Ronstadt and Vice Mayor Dunbar absent/excused) to approve the rezoning as presented.

12. ZONING: (C9-97-24) WOOTTON – HOUGHTON ROAD, SR TO R-1, CITY MANAGER’S REPORT

Mayor Walkup announced City Manager’s communication number 604, dated November 15, 2005, would be received into and made a part of the record. This was a request to rezone property located on the west side of Houghton Road, abutting the Agua Caliente Wash. He also announced the Zoning Examiner and the City Manager recommended denial of the requested rezoning. He asked if the applicant or representative was present.

Tom Parsons representing for Dr. James and Diane Wootton, stated the rezoning was initiated about eleven years ago. It had been before the Council before, it had been before Mr. Gavin before and three staff reports have been generated. He wanted to give a brief summary for Mayor and Council consideration in face of the negative staff and Zoning Examiner’s reports. His summary would be presented in two parts, the first being land use and the science of land use and the second being the political issues of rezoning.

Mr. Parsons said the rezoning request for property at Houghton Road was under the *Bear Canyon Neighborhood Plan*, which was adopted in 1984, and that area plan was reconsidered and approved four times by former incarnations of the Council. Mr. Parsons handed out materials and indicated the critical part of the packet was Exhibit Three, which was an excerpt from the *Bear Canyon Neighborhood Plan* showing the actual language. He noted that the area they were seeking to rezone was identified as Mead and Office and was marked with a single asterisk and then two asterisks. Those two sets of asterisks were the guiding policy for the use of this land.

Mr. Parsons pointed out the first asterisk said simply that land proposed in the area was contingent upon a satisfactory solution to the existing flood problems. There was a view that the language would mean construction within the flood plain would require a solution of some kind or perhaps the most oppressive reading of that language would suggest no development in the flood plain at all. Though he would have preferred some compromise to that language, none was forth coming. So they proceeded on the

assumption, over the course of eleven years, that the language meant a prohibition within the flood plain. He said a flood plain map was adopted in 1993. It was approved by the City Engineer, the Pima County Engineer, and it was sent to the Federal Emergency Management Agency (FEMA), and a formal map was adopted. The Woottons had withdrawn the entire boundary of the rezoning, an eleven acre rezoning with twenty-one houses, from outside the regulatory flood plain boundary. He added they had satisfied the sole contingency of the *Bear Canyon Neighborhood Plan*.

Mr. Parsons noted the second set of asterisks on the *Bear Canyon Neighborhood Plan* stated they could expect a density of a six homes per acre minimum up to as many as twenty homes per acre. He said that meant a 10.9-acre rezoning could have a minimum of sixty-five homes up to a maximum of two hundred eighteen homes as permitted density. They were seeking twenty-one homes or one-tenth the density the body recommended in 1983 and reaffirmed in five separate instances when the Plan came before the board. He continued saying it was important because in land use science and in good communities, which the Tanque Verde Valley Association was a signatory on the Plan, decided they would live, work and play in the same location. He stated there would be businesses such as offices, existing facilities Dr. Wootton had, which was the La Mariposa Club and recreation facility, and they would start to end the reliance on the car. It was a value that they elevated and formally adopted. He said they had met the contingency for the Plan, when suddenly another contingency showed up.

Mr. Parsons explained the rezoning area, shown, as a triangle shape on the plat map, was not in an area of high vegetative value or biological significance. It could be confirmed by viewing the map. The second map was a reference guide showing what had been done under this area plan before. He pointed out a low density residential area known has the Castle Rocks Development. This was a high density area the Council approved under this plan, though it was a lower density than the Wootton plan, which was one point nine homes per acre, one tenth the permitted density. He indicated the area directly underneath the club on Exhibit Two was a C-1 and O-3 area owned by Dr. Wootton, who also owned the whole one hundred acres, which was all part of the plan to live, work and play in the location. He also pointed out the area directly under that was the R3 property that this body was planning to convey or trade out to a developer named Mr. Campbell, to satisfy other values the community had. Mr. Parsons believed if the Council accepted the Zoning Examiner's position they would create a dichotomy that could not be reconciled. By which, he meant, Council would be going forward with development under exactly the same flood course, under exactly the same plan, and yet the Examiner would recommend denying it in this case.

Mr. Parsons continued saying also in the packet was a letter from Mr. Huckelberry and from his assistant Nicole Fife. The second letter, Exhibit Seven, to Mr. Elias was terribly pertinent, because it was the letter that created the new condition that was never amended into the Plan. This new biological condition prohibited any development where the City saw the County had determined there to be a land of biological significance. He thought that was wrong for a variety of reasons and on a variety of levels. He began with Exhibit Four, which were the City's Shaw maps, where

the City commissioned its own biologist and formally mapped areas that were determined to have a biological significance. Additionally, the City adopted a very detailed Environmental Resource Zone Ordinance (ERZ). He emphasized the City already had a very sophisticated and mature set of environmental regulations based on discrete maps. He stated the Wootton rezoning was entirely located outside the Shaw maps and it was not subject to ERZ by reason of their withdrawal out of the flood plain. Mr. Parsons pointed out the 2003 study, showing the rezoning was in an area of biological significance and referenced in the letter from Nicole Fife to Mr. Elias, was not found in the *Bear Canyon Neighborhood Plan*. He said they had also commissioned their own study. Their biologist said due to the Houghton Road construction, the water that had historically flowed over and nurtured the property no longer reached it because of the dam that had created a dry area, and in fact, she said it was an area of decline and it was dying. Regarding land use, he encouraged the Mayor and Council not to rely on the County's statement of biological concern, but their own Shaw maps and to question why the Shaw maps and ERZ were not analyzed in the Zoning Examiner's report.

Mr. Parsons said he wanted to speak briefly about the political side of the rezoning. He asked why Mr. Huckelberry cared to write a letter on a ten-acre municipal rezoning. His concern was why City staff was listening to County land use recommendations and what impact there was on the City's annexation program, an important City policy, when City staff was listening to County recommendations on land use decisions. He felt the Nicole Fife letter was adopted whole cloth by staff in their recommendation to the Council for denial and he thought for purposes of annexation, land use decisions needed to come from the City. He indicated staff listened to County directives and incorporated them as their own into staff recommendations on municipal rezoning, to the total contrary policy the body had previously set forth in a neighborhood plan. He felt the Council should take up that decision as a policy issue as it may effect the annexation program.

Mr. Parsons continued saying there was a cost benefit the Council should consider. This was hard-zoned SR dirt. Right across the Agua Caliente Wash there was a SR parcel that had been fenced off and denuded from fence to fence with only one tree left. It was a horse property. He submitted in assessing the biological aspect of the rezoning, the Council should consider what the base line was. He did not believe that analysis was in the staff report either. If the land was left SR, nothing had to be dedicated toward the linear park plan or the significant archeological site, which he noted also had not been referenced in the staff report. The regulation over the uses of the land and remaining land was heavily restricted and they would have to adhere to the zoning conditions, which also had not been sent to Council as part of the package, and they were substantial restrictions. He said the fourth benefit would be substantial monetary contributions for a twenty-lot subdivision that would have to be paid into the City's conservation funds. Finally, he confirmed there was an agreement, that would be triggered by the Councils' approval of the rezoning, with about half the neighborhood at Powderhorn who hated the traffic that came down Jones Boulevard and used the gate at the back of the property. The agreement was, upon approval, the gate would be closed except for emergency vehicles and if not approved, it was to remain open forever more.

Mr. Parsons stated the cost benefit between SR and RX1 was exactly the use as used across the wash at Powderhorn that Council had previously approved, very low density. He said SR lots would be sold to high-end homeowners, and he asked how that was in service of an urbanized area or to remotely affordable housing.

In conclusion, Mr. Parsons asked Council to make their decision based on the plain facts. There were no flood plain implications, they would protect the archeology, and they would create a linear park. He also asked the Council to keep the City's promise and honor the use so long planned for this parcel and so long relied on by Dr. Wootton in his developing and pouring millions of dollars in to the La Mariposa facility. He asked them to demonstrate to the citizens and future citizens, who would be annexed, that Council would not let the County describe and dictate land use.

Council Member West said in deference to the owner of the property, Dr. Wootton should be allowed the opportunity to speak.

Dr. Wootton said he would discuss the more personal history of the property. Basically, he had waited eleven years to get this hearing, to have the City decide upon the zoning of this property. During that time, he had worked with the City and tried to adjust anything they were doing to what the City wanted. He said when the property was first acquired, it was in the County. He thought it was about 1985 when the City came to him and asked if he would agree to be annexed. The City showed him the *Bear Canyon Neighborhood Plan*, he saw it allowed for multi-family use and offices, and he thought that would be fine. The City asked him if he wanted to have the property rezoned at that time, but he had no particular plan, and said he would wait and ask for the rezoning when the time came.

In 1994, Dr. Wootton said he opened the club and simultaneously developed a master plan where they would have homes and they would have people living and playing within this boundary. People could ride bicycles to the club to go swimming, follow the footpath to go down to exercise or use the running path that went around the perimeter. They planned a living, healthy community.

He continued saying he had paid to have a flood plain study done because there had not been one done since the Houghton Road construction. The City hydrologist, the County hydrologist, and FEMA had accepted and approved it to be the legal flood plain map for the area. Toward the end of 1994, they submitted the rezoning for sixteen units per acre and it was approved by City staff and progressed to the City Council with no objection except that Janet Marcus, who was the Council Member for the area, said she had heard there might be a change in the flood plain. The fact was, the County by law was required to do a Conditional Letter of Map Revision (CLOMR), a description of what changes would be made in the flood plain, before they built the Tanque Verde Bridge. It was not done. Dr. Wootton said, next, the County was required by law to create a new flood plain map within six months after the construction of the bridge. So, Janet Marcus asked them to wait six months and see if there was a new map. Dr. Wootton agreed to postpone the project. He said six months passed and there was no

map. Then nine months passed and there was no map. He went back to the Zoning Commissioner, who said he was sorry that the County had not performed as they legally should have, but he could not send the zoning forward without a flood plain map. Dr. Wootton said they waited again.

In 1999, Dr. Wootton stated, there were some flood plain maps shown by the County. He spoke with Janet Marcus, who said if they would build patio homes consisting of five to seven units per acre she would agree to approval. They brought up an even better plan with four to five detached homes per acre, staff approved it, but it could not be forwarded because there was still no final flood plain map. Now, in 2005, they had a FEMA approved corrected affective map. Dr. Wootton said they shrank the project to include only property outside the flood plain, with only twenty-three homes, approximately two per acre. He thought they had co-operated as much as possible with the City and were shocked when staff recommended denial. He said the County had presented to City staff that the property was home to pigmy owls. Dr. Wootton had studies done three consecutive years and spent three thousand six hundred dollars to find out if the property had flood plain owls. It had none. The County also indicated there were a raft of animals in the area that have never been found there. Dr. Wootton felt they were making an exaggerated claim to show the uniqueness of the area. He said it was unique in the fact this was a riparian area where the trees were dying due to surface flow being blocked by Houghton Road. He said the City was also pumping a thousand gallons a minute from a well about one half mile from the area. He indicated the ground water level in the area had dropped from twenty feet to one hundred feet during this period. Some of the huge eucalyptus trees were showing signs of distress and may be dying. Many mesquites were dead. He said it was not the healthy environment and jewel of the desert described by some. It was a struggling ecology. He emphasized they had tried to make the project a beautiful place. They have created a beautiful environment with lovely ponds that attracted water birds. They had done everything they could to make the development beautiful so the City would have faith they would do the same in future developments.

Dr. Wootton said there was a lot of talk about infill, land within the City limits where all utilities were already in to the property line. These were the properties that should be developed and this was a clear case of an infill development waiting to be built upon.

In closing, Dr. Wootton hoped the Council heard a story of patience and co-operation with the City over a long period of time. He hoped they would reward his faith by allowing the zoning to go forward.

Council Member West stated there was a slight discrepancy. In the record it stated a previous zoning request in 1997 was for R1 zoning for ninety-two single residences on 25.5 acres. She asked which was correct, 1994 or 1997.

Peter Gavin, Zoning Examiner, explained there were two rezonings. One in 1994 for an apartment complex with about three hundred sixty eight units and another in 1997

for ninety two single family homes on 25.5 acres. A portion of the total site Dr. Wootton owns was in question for this case, it was a 10.9 acre site.

Council Member West felt some points needed to be brought out for the record. Within the Tucson Basin, the complex riparian habitats associated with Tanque Verde Creek and the Agua Caliente Wash was highly significant. She said it was one of the few riparian systems that functioned in a relatively natural condition. Consistent with the intent of the ERZ and in light of regional significance of the location, critical habitat on the rezoning should be fully preserved both within and outside the current regulatory flood plain. She also noted that three different neighborhoods, all within the Bear Canyon Neighborhood Association, testified before the Zoning Examiner and asked for a denial on this rezoning. In addition, there were some archeological impacts. A majority of the features were intact and the site contained significant research potential for providing important scientific information about human activities during one or more poorly understood periods in the prehistory of the eastern Tucson Basin.

Council Member West said that Dr. Wootton had been a good neighbor. The La Mariposa was a wonderful resort and had become much appreciated by the neighborhoods. At the same time, earlier encroachment occurred. She remembered when there were water waves on a lot in Powderhorn in 1993. The City allowed others to build, but it did not mean the City should continue to allow it. Indeed, threats of flooding to other areas made this rezoning a challenge. She said the developer could legally develop the Suburban Ranch and that was what he should do. This was one of the last significant riparian areas in the City, and to remove what vegetation there was and effect the wildlife corridors was not a good practice in such a sensitive area. They had also heard there was a Conditional Letter of Map Revision (CLOMR). While the CLOMR indicated this was out of the flood plain, FEMA had not yet issued the letter of map revision and it is not known what it would mean. Suzanne Shields of the Pima County Flood Control District stated there were no assurances that flooding would not occur. She further pointed out the area had a high water table and flooding, and indeed in 1993 some of the nearby property owners were marooned for a significant period of time. Therefore, Council Member West moved for denial of the rezoning request as recommended by the Zoning Examiner.

Mayor Walkup asked if there was further discussion. Hearing none, he asked Council Member West to restate the motion.

It was moved by Council Member West, duly seconded, and passed by a voice vote of 5 to 0 (Council Member Ronstadt and Vice Mayor Dunbar absent/excused) to deny the request for rezoning as recommended by the Zoning Examiner.

14. ELECTIONS: CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY GENERAL AND SPECIAL ELECTIONS HELD NOVEMBER 8, 2005

(Note: Item 14 was taken out of order)

Mayor Walkup announced City Manager's communication number 612, dated November 15, 2005, would be received into and made a part of the record. . He asked the City Clerk to read Resolution 20222 and 20223 by number and title only.

Resolution No. 20222 relating to elections; canvassing the returns and declaring the results of the General Election held in the City of Tucson, Arizona on November 8, 2005.

Resolution No. 20223 relating to elections; canvassing the returns and declaring the results of the Special Election held in the City of Tucson, Arizona on November 8, 2005.

It was moved by Council Member Ibarra, duly seconded, to pass and adopt Resolution 20222.

Mayor Walkup asked if there were any discussions. Upon hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott and Leal;
Mayor Walkup.

Nay: None

Absent/Excused: Council Member Ronstadt and Vice Mayor Dunbar

Resolution 20222 was declared passed and adopted by a roll call vote of 5 to 0.

It was moved by Council Member Ibarra, duly seconded, to pass and adopt Resolution 20223.

Mayor Walkup asked if there were any discussions. Upon hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Scott and Leal;
Mayor Walkup.

Nay: None

Absent/Excused: Council Member Ronstadt and Vice Mayor Dunbar

Resolution 20223 was declared passed and adopted by a roll call vote of 5 to 0.

13. FINANCE: GOLF LINKS ROAD, PANTANO PARKWAY TO BONANZA AVENUE DISTRICT PAVING AND LIGHTING IMPROVEMENT (CONTINUED FROM MEETING OF NOVEMBER 1, 2005)

Mayor Walkup announced City Manager's communication number 610, dated November 15, 2005, would be received into and made a part of the record. He asked the City Clerk to read Resolution 20198 by number and title only.

Resolution No. 20198 approving assessment and previous proceedings for the "Golf Links Road, Pantano Parkway to Bonanza Avenue District Paving and Lighting Improvement," in the City of Tucson, Arizona.

It was moved by Council Member Scott, duly seconded, to pass and adopt Resolution No. 20198.

Mayor Walkup asked if there were any discussions. Upon hearing none, he asked for a roll call vote.

Upon Roll Call, the results were:

Aye: Council Members Ibarra, West, Scott and Leal;
Mayor Walkup

Nay: None

Absent/Excused: Council Member Ronstadt and Vice Mayor Dunbar

Resolution 20198 was declared passed and adopted by a roll call vote of 5 to 0.

14. ELECTIONS: CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY GENERAL AND SPECIAL ELECTIONS HELD NOVEMBER 8, 2005

(Note: This item was taken out of order and was discussed after Item 12)

15. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 594, dated November 15, 2005, would be received into and made a part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 5 to 0 (Council Member Ronstadt and Vice Mayor Dunbar absent/excused), to approve the appointment of Matt Freeman, Qunicey Hobbs, and Justin Williams to the Technology Policy Advisory Committee and Robert Smith and Diane Katz to the Pima County/City of Tucson Commission on Addiction, Prevention and Treatment.

Mayor Walkup asked if there were any personal appointments to be made. There were none.

16. ADJOURNMENT 6:52 p.m.

Mayor Walkup announced the Council would stand adjourned until its next regularly scheduled meeting to be held on Tuesday, November 22, 2005, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 15th day of November 2005, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:jr/pp